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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

- "Christie bans drugs known as 'bath salts'," The Press of Atlantic City, 8-24-11
- "Christie signs legislation banning bath salts in N.J.," Asbury Park Press, 8-24-11
- "Bath salts' ban signed into law," Home News Tribune, 8-24-11
- "Christie signs legislation banning designer drugs," Courier News, 8-24-11
- "Governor Oks ban on 'bath salts'," Courier-Post, 8-24-11
- "Christie signs legislation banning bath salts in N.J.," Daily Record, 8-24-11
- "Governor signs 'Pamela's Law' criminalizing so-called 'bath salts'," The Star-Ledger, 8-24-11
- "Bath salts' drug banned in N.J.," The Record, 8-24-11
- "New law makes bath salts illegal," New Jersey Herald, 8-24-11
- "Bath Salts' Drugs Banned," The Wall Street Journal, 8-24-11

LAW/RWH

P.L.2011, CHAPTER 120, *approved August 22, 2011*
Senate Committee Substitute for
Senate, No. 2829

1 AN ACT concerning controlled dangerous substances, designated as
2 “Pamela’s Law,” and amending and supplementing Title 2C of
3 the New Jersey Statutes.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. N.J.S.2C:35-2 is amended to read as follows:

9 2C:35-2. Definitions. As used in this chapter:

10 "Administer" means the direct application of a controlled
11 dangerous substance or controlled substance analog, whether by
12 injection, inhalation, ingestion, or any other means, to the body of a
13 patient or research subject by: (1) a practitioner (or, in his
14 presence, by his lawfully authorized agent), or (2) the patient or
15 research subject at the lawful direction and in the presence of the
16 practitioner.

17 "Agent" means an authorized person who acts on behalf of or at
18 the direction of a manufacturer, distributor, or dispenser but does
19 not include a common or contract carrier, public warehouseman, or
20 employee thereof.

21 "Controlled dangerous substance" means a drug, substance, or
22 immediate precursor in Schedules I through V, any substance the
23 distribution of which is specifically prohibited in N.J.S.2C:35-3, in
24 section 3 of P.L.1997, c.194 (C.2C:35-5.2) **[or]** , in section 5 of
25 P.L.1997, c.194 (C.2C:35-5.3) , or in section 2 of P.L. , c. (C.)
26 (pending before the Legislature as this bill), and any drug or
27 substance which, when ingested, is metabolized or otherwise
28 becomes a controlled dangerous substance in the human body.
29 When any statute refers to controlled dangerous substances, or to a
30 specific controlled dangerous substance, it shall also be deemed to
31 refer to any drug or substance which, when ingested, is metabolized
32 or otherwise becomes a controlled dangerous substance or the
33 specific controlled dangerous substance, and to any substance that
34 is an immediate precursor of a controlled dangerous substance or
35 the specific controlled dangerous substance. The term shall not
36 include distilled spirits, wine, malt beverages, as those terms are
37 defined or used in R.S.33:1-1 et seq., or tobacco and tobacco
38 products. The term, wherever it appears in any law or

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 administrative regulation of this State, shall include controlled
2 substance analogs.

3 "Controlled substance analog" means a substance that has a
4 chemical structure substantially similar to that of a controlled
5 dangerous substance and that was specifically designed to produce
6 an effect substantially similar to that of a controlled dangerous
7 substance. The term shall not include a substance manufactured or
8 distributed in conformance with the provisions of an approved new
9 drug application or an exemption for investigational use within the
10 meaning of section 505 of the "Federal Food, Drug and Cosmetic
11 Act," 52 Stat. 1052 (21 U.S.C. s.355).

12 "Counterfeit substance" means a controlled dangerous substance
13 or controlled substance analog which, or the container or labeling of
14 which, without authorization, bears the trademark, trade name, or
15 other identifying mark, imprint, number or device, or any likeness
16 thereof, of a manufacturer, distributor, or dispenser other than the
17 person or persons who in fact manufactured, distributed or
18 dispensed such substance and which thereby falsely purports or is
19 represented to be the product of, or to have been distributed by,
20 such other manufacturer, distributor, or dispenser.

21 "Deliver" or "delivery" means the actual, constructive, or
22 attempted transfer from one person to another of a controlled
23 dangerous substance or controlled substance analog, whether or not
24 there is an agency relationship.

25 "Dispense" means to deliver a controlled dangerous substance or
26 controlled substance analog to an ultimate user or research subject
27 by or pursuant to the lawful order of a practitioner, including the
28 prescribing, administering, packaging, labeling, or compounding
29 necessary to prepare the substance for that delivery. "Dispenser"
30 means a practitioner who dispenses.

31 "Distribute" means to deliver other than by administering or
32 dispensing a controlled dangerous substance or controlled substance
33 analog. "Distributor" means a person who distributes.

34 "Drugs" means (a) substances recognized in the official United
35 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the
36 United States, or official National Formulary, or any supplement to
37 any of them; and (b) substances intended for use in the diagnosis,
38 cure, mitigation, treatment, or prevention of disease in man or other
39 animals; and (c) substances (other than food) intended to affect the
40 structure or any function of the body of man or other animals; and
41 (d) substances intended for use as a component of any article
42 specified in subsections (a), (b) and (c) of this section; but does not
43 include devices or their components, parts or accessories.

44 "Drug or alcohol dependent person" means a person who as a
45 result of using a controlled dangerous substance or controlled
46 substance analog or alcohol has been in a state of psychic or
47 physical dependence, or both, arising from the use of that controlled

1 dangerous substance or controlled substance analog or alcohol on a
2 continuous or repetitive basis. Drug or alcohol dependence is
3 characterized by behavioral and other responses, including but not
4 limited to a strong compulsion to take the substance on a recurring
5 basis in order to experience its psychic effects, or to avoid the
6 discomfort of its absence.

7 "Hashish" means the resin extracted from any part of the plant
8 Genus Cannabis L. and any compound, manufacture, salt,
9 derivative, mixture, or preparation of such resin.

10 "Manufacture" means the production, preparation, propagation,
11 compounding, conversion or processing of a controlled dangerous
12 substance or controlled substance analog, either directly or by
13 extraction from substances of natural origin, or independently by
14 means of chemical synthesis, or by a combination of extraction and
15 chemical synthesis, and includes any packaging or repackaging of
16 the substance or labeling or relabeling of its container, except that
17 this term does not include the preparation or compounding of a
18 controlled dangerous substance or controlled substance analog by
19 an individual for his own use or the preparation, compounding,
20 packaging, or labeling of a controlled dangerous substance: (1) by
21 a practitioner as an incident to his administering or dispensing of a
22 controlled dangerous substance or controlled substance analog in
23 the course of his professional practice, or (2) by a practitioner (or
24 under his supervision) for the purpose of, or as an incident to,
25 research, teaching, or chemical analysis and not for sale.

26 "Marijuana" means all parts of the plant Genus Cannabis L.,
27 whether growing or not; the seeds thereof, and every compound,
28 manufacture, salt, derivative, mixture, or preparation of such plant
29 or its seeds, except those containing resin extracted from such plant;
30 but shall not include the mature stalks of such plant, fiber produced
31 from such stalks, oil or cake made from the seeds of such plant, any
32 other compound, manufacture, salt, derivative, mixture, or
33 preparation of such mature stalks, fiber, oil, or cake, or the
34 sterilized seed of such plant which is incapable of germination.

35 "Narcotic drug" means any of the following, whether produced
36 directly or indirectly by extraction from substances of vegetable
37 origin, or independently by means of chemical synthesis, or by a
38 combination of extraction and chemical synthesis:

39 (a) Opium, coca leaves, and opiates;

40 (b) A compound, manufacture, salt, derivative, or preparation of
41 opium, coca leaves, or opiates;

42 (c) A substance (and any compound, manufacture, salt,
43 derivative, or preparation thereof) which is chemically identical
44 with any of the substances referred to in subsections (a) and (b),
45 except that the words "narcotic drug" as used in this act shall not
46 include decocainized coca leaves or extracts of coca leaves, which
47 extracts do not contain cocaine or ecogine.

1 "Opiate" means any dangerous substance having an addiction-
2 forming or addiction-sustaining liability similar to morphine or
3 being capable of conversion into a drug having such addiction-
4 forming or addiction-sustaining liability. It does not include, unless
5 specifically designated as controlled pursuant to the provisions of
6 section 3 of P.L.1970, c.226 (C.24:21-3), the dextrorotatory isomer
7 of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).
8 It does include its racemic and levorotatory forms.

9 "Opium poppy" means the plant of the species *Papaver*
10 *somniferum* L., except the seeds thereof.

11 "Person" means any corporation, association, partnership, trust,
12 other institution or entity or one or more individuals.

13 "Plant" means an organism having leaves and a readily
14 observable root formation, including, but not limited to, a cutting
15 having roots, a rootball or root hairs.

16 "Poppy straw" means all parts, except the seeds, of the opium
17 poppy, after mowing.

18 "Practitioner" means a physician, dentist, veterinarian, scientific
19 investigator, laboratory, pharmacy, hospital or other person
20 licensed, registered, or otherwise permitted to distribute, dispense,
21 conduct research with respect to, or administer a controlled
22 dangerous substance or controlled substance analog in the course of
23 professional practice or research in this State.

24 (a) "Physician" means a physician authorized by law to practice
25 medicine in this or any other state and any other person authorized
26 by law to treat sick and injured human beings in this or any other
27 state.

28 (b) "Veterinarian" means a veterinarian authorized by law to
29 practice veterinary medicine in this State.

30 (c) "Dentist" means a dentist authorized by law to practice
31 dentistry in this State.

32 (d) "Hospital" means any federal institution, or any institution
33 for the care and treatment of the sick and injured, operated or
34 approved by the appropriate State department as proper to be
35 entrusted with the custody and professional use of controlled
36 dangerous substances or controlled substance analogs.

37 (e) "Laboratory" means a laboratory to be entrusted with the
38 custody of narcotic drugs and the use of controlled dangerous
39 substances or controlled substance analogs for scientific,
40 experimental and medical purposes and for purposes of instruction
41 approved by the State Department of Health and Senior Services.

42 "Production" includes the manufacture, planting, cultivation,
43 growing, or harvesting of a controlled dangerous substance or
44 controlled substance analog.

45 "Immediate precursor" means a substance which the State
46 Department of Health and Senior Services has found to be and by
47 regulation designates as being the principal compound commonly

1 used or produced primarily for use, and which is an immediate
2 chemical intermediary used or likely to be used in the manufacture
3 of a controlled dangerous substance or controlled substance analog,
4 the control of which is necessary to prevent, curtail, or limit such
5 manufacture.

6 "Residential treatment facility" means any facility licensed and
7 approved by the Department of Health and Senior Services and
8 which is approved by any county probation department for the
9 inpatient treatment and rehabilitation of drug or alcohol dependent
10 persons.

11 "Schedules I, II, III, IV, and V" are the schedules set forth in
12 sections 5 through 8 of P.L.1970, c.226 (C.24:21-5 through 24:21-
13 8) and in section 4 of P.L.1971, c.3 (C.24:21-8.1) and as modified
14 by any regulations issued by the Commissioner of Health and
15 Senior Services pursuant to his authority as provided in section 3 of
16 P.L.1970, c.226 (C.24:21-3).

17 "State" means the State of New Jersey.

18 "Ultimate user" means a person who lawfully possesses a
19 controlled dangerous substance or controlled substance analog for
20 his own use or for the use of a member of his household or for
21 administration to an animal owned by him or by a member of his
22 household.

23 "Prescription legend drug" means any drug which under federal
24 or State law requires dispensing by prescription or order of a
25 licensed physician, veterinarian or dentist and is required to bear the
26 statement "Rx only" or similar wording indicating that such drug
27 may be sold or dispensed only upon the prescription of a licensed
28 medical practitioner and is not a controlled dangerous substance or
29 stramonium preparation.

30 "Stramonium preparation" means a substance prepared from any
31 part of the stramonium plant in the form of a powder, pipe mixture,
32 cigarette, or any other form with or without other ingredients.

33 "Stramonium plant" means the plant *Datura Stramonium* Linne,
34 including *Datura Tatula* Linne.

35 (cf: P.L.2005, c.205, s.1)

36

37 2. (New section) a. It is a crime for any person knowingly or
38 purposely to manufacture, distribute or dispense, or to possess or
39 have under his control with intent to manufacture, distribute, or
40 dispense substances containing: 4-methylmethcathinone
41 (mephedrone, 4-MMC); 3,4-methylenedioxypropylvalerone (MDPV);
42 3,4-methylenedioxymethcathinone (methydone, MDMC), 4-
43 methoxymethcathinone (methedrone, bk-PMMA, PMMC); 3-
44 fluoromethcathinone (3-FMC); or 4-fluoromethcathinone
45 (flephedrone, 4-FMC).

1 b. A person who violates subsection a. of this section where the
2 quantity involved is one ounce or more is guilty of a crime of the
3 second degree.

4 c. A person who violates subsection a. of this section where the
5 quantity involved is less than one ounce is guilty of a crime of the
6 third degree.

7
8 3. (New section) a. It is a crime for any person, knowingly or
9 purposely, to obtain, or to possess, substances containing: 4-
10 methylmethcathinone (mephedrone, 4-MMC); 3,4-
11 methylenedioxypropylone (MDPV); 3,4-
12 methylenedioxypropylone (methyline, MDMC), 4-
13 methoxymethcathinone (methedrone, bk-PMMA, PMMC); 3-
14 fluoromethcathinone (3-FMC); or 4-fluoromethcathinone
15 (flephedrone, 4-FMC).

16 b. A person who violates subsection a. of this section where the
17 quantity involved is one ounce or more is guilty of a crime of the
18 third degree.

19 c. A person who violates subsection a. of this section where the
20 quantity involved is less than one ounce is guilty of a crime of the
21 fourth degree.

22

23 4. This act shall take effect immediately.

24

25

26

27

28 “Pamela’s Law;” criminalizes possession and sale of
29 mephedrone and methylenedioxypropylone, commonly known as
30 MDPV or “bath salts.”

SENATE, No. 2829

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED APRIL 11, 2011

Sponsored by:

Senator JOHN A. GIRGENTI

District 35 (Bergen and Passaic)

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

Co-Sponsored by:

Senators A.R.Bucco and Bateman

SYNOPSIS

“Pamela’s Law;” criminalizes possession and sale of mephedrone and methylenedioxypropylone, commonly known as MDPV or “bath salts.”

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/13/2011)

1 AN ACT concerning mephedrone and methylenedioxypropylamphetamine,
2 known as MDPV or “bath salts,” and designated as “Pamela’s
3 Law” and amending and supplementing Title 2C of the New
4 Jersey Statutes.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. N.J.S.2C:35-2 is amended to read as follows:
10 2C:35-2. Definitions. As used in this chapter:

11 "Administer" means the direct application of a controlled
12 dangerous substance or controlled substance analog, whether by
13 injection, inhalation, ingestion, or any other means, to the body of a
14 patient or research subject by: (1) a practitioner (or, in his
15 presence, by his lawfully authorized agent), or (2) the patient or
16 research subject at the lawful direction and in the presence of the
17 practitioner.

18 "Agent" means an authorized person who acts on behalf of or at
19 the direction of a manufacturer, distributor, or dispenser but does
20 not include a common or contract carrier, public warehouseman, or
21 employee thereof.

22 "Controlled dangerous substance" means a drug, substance, or
23 immediate precursor in Schedules I through V, any substance the
24 distribution of which is specifically prohibited in N.J.S.2C:35-3, in
25 section 3 of P.L.1997, c.194 (C.2C:35-5.2) **[or]** , in section 5 of
26 P.L.1997, c.194 (C.2C:35-5.3), in section 2 of P.L. , c. (C.)
27 (pending before the Legislature as this bill), and any drug or
28 substance which, when ingested, is metabolized or otherwise
29 becomes a controlled dangerous substance in the human body.
30 When any statute refers to controlled dangerous substances, or to a
31 specific controlled dangerous substance, it shall also be deemed to
32 refer to any drug or substance which, when ingested, is metabolized
33 or otherwise becomes a controlled dangerous substance or the
34 specific controlled dangerous substance, and to any substance that
35 is an immediate precursor of a controlled dangerous substance or
36 the specific controlled dangerous substance. The term shall not
37 include distilled spirits, wine, malt beverages, as those terms are
38 defined or used in R.S.33:1-1 et seq., or tobacco and tobacco
39 products. The term, wherever it appears in any law or
40 administrative regulation of this State, shall include controlled
41 substance analogs.

42 "Controlled substance analog" means a substance that has a
43 chemical structure substantially similar to that of a controlled
44 dangerous substance and that was specifically designed to produce
45 an effect substantially similar to that of a controlled dangerous

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 substance. The term shall not include a substance manufactured or
2 distributed in conformance with the provisions of an approved new
3 drug application or an exemption for investigational use within the
4 meaning of section 505 of the "Federal Food, Drug and Cosmetic
5 Act," 52 Stat. 1052 (21 U.S.C. s.355).

6 "Counterfeit substance" means a controlled dangerous substance
7 or controlled substance analog which, or the container or labeling of
8 which, without authorization, bears the trademark, trade name, or
9 other identifying mark, imprint, number or device, or any likeness
10 thereof, of a manufacturer, distributor, or dispenser other than the
11 person or persons who in fact manufactured, distributed or
12 dispensed such substance and which thereby falsely purports or is
13 represented to be the product of, or to have been distributed by,
14 such other manufacturer, distributor, or dispenser.

15 "Deliver" or "delivery" means the actual, constructive, or
16 attempted transfer from one person to another of a controlled
17 dangerous substance or controlled substance analog, whether or not
18 there is an agency relationship.

19 "Dispense" means to deliver a controlled dangerous substance or
20 controlled substance analog to an ultimate user or research subject
21 by or pursuant to the lawful order of a practitioner, including the
22 prescribing, administering, packaging, labeling, or compounding
23 necessary to prepare the substance for that delivery. "Dispenser"
24 means a practitioner who dispenses.

25 "Distribute" means to deliver other than by administering or
26 dispensing a controlled dangerous substance or controlled substance
27 analog. "Distributor" means a person who distributes.

28 "Drugs" means (a) substances recognized in the official United
29 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the
30 United States, or official National Formulary, or any supplement to
31 any of them; and (b) substances intended for use in the diagnosis,
32 cure, mitigation, treatment, or prevention of disease in man or other
33 animals; and (c) substances (other than food) intended to affect the
34 structure or any function of the body of man or other animals; and
35 (d) substances intended for use as a component of any article
36 specified in subsections (a), (b) and (c) of this section; but does not
37 include devices or their components, parts or accessories.

38 "Drug or alcohol dependent person" means a person who as a
39 result of using a controlled dangerous substance or controlled
40 substance analog or alcohol has been in a state of psychic or
41 physical dependence, or both, arising from the use of that controlled
42 dangerous substance or controlled substance analog or alcohol on a
43 continuous or repetitive basis. Drug or alcohol dependence is
44 characterized by behavioral and other responses, including but not
45 limited to a strong compulsion to take the substance on a recurring
46 basis in order to experience its psychic effects, or to avoid the
47 discomfort of its absence.

1 "Hashish" means the resin extracted from any part of the plant
2 Genus Cannabis L. and any compound, manufacture, salt,
3 derivative, mixture, or preparation of such resin.

4 "Manufacture" means the production, preparation, propagation,
5 compounding, conversion or processing of a controlled dangerous
6 substance or controlled substance analog, either directly or by
7 extraction from substances of natural origin, or independently by
8 means of chemical synthesis, or by a combination of extraction and
9 chemical synthesis, and includes any packaging or repackaging of
10 the substance or labeling or relabeling of its container, except that
11 this term does not include the preparation or compounding of a
12 controlled dangerous substance or controlled substance analog by
13 an individual for his own use or the preparation, compounding,
14 packaging, or labeling of a controlled dangerous substance: (1) by
15 a practitioner as an incident to his administering or dispensing of a
16 controlled dangerous substance or controlled substance analog in
17 the course of his professional practice, or (2) by a practitioner (or
18 under his supervision) for the purpose of, or as an incident to,
19 research, teaching, or chemical analysis and not for sale.

20 "Marijuana" means all parts of the plant Genus Cannabis L.,
21 whether growing or not; the seeds thereof, and every compound,
22 manufacture, salt, derivative, mixture, or preparation of such plant
23 or its seeds, except those containing resin extracted from such plant;
24 but shall not include the mature stalks of such plant, fiber produced
25 from such stalks, oil or cake made from the seeds of such plant, any
26 other compound, manufacture, salt, derivative, mixture, or
27 preparation of such mature stalks, fiber, oil, or cake, or the
28 sterilized seed of such plant which is incapable of germination.

29 "Narcotic drug" means any of the following, whether produced
30 directly or indirectly by extraction from substances of vegetable
31 origin, or independently by means of chemical synthesis, or by a
32 combination of extraction and chemical synthesis:

33 (a) Opium, coca leaves, and opiates;

34 (b) A compound, manufacture, salt, derivative, or preparation of
35 opium, coca leaves, or opiates;

36 (c) A substance (and any compound, manufacture, salt,
37 derivative, or preparation thereof) which is chemically identical
38 with any of the substances referred to in subsections (a) and (b),
39 except that the words "narcotic drug" as used in this act shall not
40 include decocainized coca leaves or extracts of coca leaves, which
41 extracts do not contain cocaine or ecogine.

42 "Opiate" means any dangerous substance having an addiction-
43 forming or addiction-sustaining liability similar to morphine or
44 being capable of conversion into a drug having such addiction-
45 forming or addiction-sustaining liability. It does not include, unless
46 specifically designated as controlled pursuant to the provisions of
47 section 3 of P.L.1970, c.226 (C.24:21-3), the dextrorotatory isomer

1 of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).
2 It does include its racemic and levorotatory forms.

3 "Opium poppy" means the plant of the species *Papaver*
4 *somniferum* L., except the seeds thereof.

5 "Person" means any corporation, association, partnership, trust,
6 other institution or entity or one or more individuals.

7 "Plant" means an organism having leaves and a readily
8 observable root formation, including, but not limited to, a cutting
9 having roots, a rootball or root hairs.

10 "Poppy straw" means all parts, except the seeds, of the opium
11 poppy, after mowing.

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13 investigator, laboratory, pharmacy, hospital or other person
14 licensed, registered, or otherwise permitted to distribute, dispense,
15 conduct research with respect to, or administer a controlled
16 dangerous substance or controlled substance analog in the course of
17 professional practice or research in this State.

18 (a) "Physician" means a physician authorized by law to practice
19 medicine in this or any other state and any other person authorized
20 by law to treat sick and injured human beings in this or any other
21 state.

22 (b) "Veterinarian" means a veterinarian authorized by law to
23 practice veterinary medicine in this State.

24 (c) "Dentist" means a dentist authorized by law to practice
25 dentistry in this State.

26 (d) "Hospital" means any federal institution, or any institution
27 for the care and treatment of the sick and injured, operated or
28 approved by the appropriate State department as proper to be
29 entrusted with the custody and professional use of controlled
30 dangerous substances or controlled substance analogs.

31 (e) "Laboratory" means a laboratory to be entrusted with the
32 custody of narcotic drugs and the use of controlled dangerous
33 substances or controlled substance analogs for scientific,
34 experimental and medical purposes and for purposes of instruction
35 approved by the State Department of Health and Senior Services.

36 "Production" includes the manufacture, planting, cultivation,
37 growing, or harvesting of a controlled dangerous substance or
38 controlled substance analog.

39 "Immediate precursor" means a substance which the State
40 Department of Health and Senior Services has found to be and by
41 regulation designates as being the principal compound commonly
42 used or produced primarily for use, and which is an immediate
43 chemical intermediary used or likely to be used in the manufacture
44 of a controlled dangerous substance or controlled substance analog,
45 the control of which is necessary to prevent, curtail, or limit such
46 manufacture.

47 "Residential treatment facility" means any facility licensed and
48 approved by the Department of Health and Senior Services and

1 which is approved by any county probation department for the
2 inpatient treatment and rehabilitation of drug or alcohol dependent
3 persons.

4 "Schedules I, II, III, IV, and V" are the schedules set forth in
5 sections 5 through 8 of P.L.1970, c.226 (C.24:21-5 through 24:21-
6 8) and in section 4 of P.L.1971, c.3 (C.24:21-8.1) and as modified
7 by any regulations issued by the Commissioner of Health and
8 Senior Services pursuant to his authority as provided in section 3 of
9 P.L.1970, c.226 (C.24:21-3).

10 "State" means the State of New Jersey.

11 "Ultimate user" means a person who lawfully possesses a
12 controlled dangerous substance or controlled substance analog for
13 his own use or for the use of a member of his household or for
14 administration to an animal owned by him or by a member of his
15 household.

16 "Prescription legend drug" means any drug which under federal
17 or State law requires dispensing by prescription or order of a
18 licensed physician, veterinarian or dentist and is required to bear the
19 statement "Rx only" or similar wording indicating that such drug
20 may be sold or dispensed only upon the prescription of a licensed
21 medical practitioner and is not a controlled dangerous substance or
22 stramonium preparation.

23 "Stramonium preparation" means a substance prepared from any
24 part of the stramonium plant in the form of a powder, pipe mixture,
25 cigarette, or any other form with or without other ingredients.

26 "Stramonium plant" means the plant *Datura Stramonium* Linne,
27 including *Datura Tatula* Linne.

28 (cf: P.L.2005, c.205, s.1)

29

30 2. (New section) It is a crime of the third degree for any
31 person knowingly or purposely to manufacture, distribute or
32 dispense, or to possess or have under his control with intent to
33 manufacture, distribute, or dispense mephedrone or
34 methylenedioxypropylamphetamine, except as otherwise authorized by
35 P.L.1970, c.226 (C.24:21-1 et seq.).

36

37 3. (New section) It is a crime of the fourth degree for any
38 person, knowingly or purposely, to obtain, or to possess,
39 mephedrone or methylenedioxypropylamphetamine unless the substance
40 was obtained directly, or pursuant to a valid prescription or order
41 form from a practitioner, while acting in the course of his
42 professional practice, or except as otherwise authorized by
43 P.L.1970, c.226 (C.24:21-1 et seq.).

44

45 4. This act shall take effect immediately.

STATEMENT

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This bill would criminalize the possession and sale of products containing mephedrone or methylenedioxypropylamphetamine, commonly known as MDPV or “bath salts.” The use of these products, which are believed to be highly addictive, has been associated with increased blood pressure, increased heart rate, agitation, hallucinations, extreme paranoia, delusions, and suicidal thoughts. These products are frequently marketed as “cocaine substitutes” and are easily available for purchase on the Internet and in retail establishments such as gas stations, convenience stores, and “head shops.”

This bill would make it a crime of the third degree to manufacture, distribute or dispense, or possess or have under one’s control with intent to manufacture, distribute, or dispense products containing mephedrone or methylenedioxypropylamphetamine. A crime of the third degree is punishable by a three to five years imprisonment, a \$15,000 fine, or both. The unauthorized possession of products containing mephedrone or methylenedioxypropylamphetamine without the intent to manufacture, distribute, or dispense the products would be a crime of the fourth degree, which is punishable by up to 18 months imprisonment, a \$10,000 fine, or both.

This bill would be known as “Pamela’s Law” in memory of Pamela Schmidt, a Rutgers student and resident of Warren Township whose body was discovered on March 13, 2011 in the basement of her boyfriend’s parent’s home in Cranford. According to newspaper articles Pamela Schmidt’s boyfriend, who has been charged with her alleged murder, may have been using “bath salts.”

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 2829**

STATE OF NEW JERSEY

DATED: MAY 26, 2011

The Senate Law and Public Safety Committee reports favorably a Senate Committee Substitute for Senate Bill No. 2829.

This committee substitute prohibits the possession and sale of products containing six chemical substances commonly referred to as “bath salts.” The use of these synthetic drugs, which are believed to be highly addictive, has been associated with increased blood pressure, increased heart rate, agitation, hallucinations, extreme paranoia, delusions, and suicidal thoughts. These products are frequently marketed as “cocaine substitutes” and recently had been available for purchase on the Internet and in retail establishments such as gas stations, convenience stores, and “head shops.”

Under the substitute, it is a crime to manufacture, distribute or dispense, or possess or have under one’s control with intent to manufacture, distribute, or dispense, products containing these synthetic substances. In cases where the amount involved is one ounce or more, the offense would be graded as a second-degree crime. Offenses that involve less than one ounce are graded as a third-degree crime. A crime of the second degree is punishable by imprisonment for a term of five to 10 years, a fine of up to \$150,000, or both. A crime of the third degree is punishable by imprisonment for a term of three to five years, a fine of up to \$15,000, or both. The unauthorized possession of products containing these synthetic substances without the intent to manufacture, distribute, or dispense the products would be a crime of the third degree if one ounce or more is involved, and of the fourth degree where less than one ounce is involved. A crime of the fourth degree is punishable by imprisonment for a term of up to 18 months, a fine of up to \$10,000, or both.

On April 27, 2011, the Acting Director of the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to the authority of paragraph (3) of subsection b. of section 31 of P.L.1970, c.226 (C.24:21-31), signed an order adding these substances to Schedule I of the “New Jersey Controlled Dangerous Substances Act.” This is the a category for substances that have a high potential for abuse and no accepted medical use in treatment in the United States, thereby subjecting them to the strictest level of control.

Because the criminal code (Title 2C) makes the manufacture, distribution, and possession of Schedule I substances a crime, the order had the effect of making it a crime to manufacture, distribute, sell, or possess these substances. This committee substitute would codify the order by adding provisions to the criminal code that specifically address these substances and imposing criminal penalties for the manufacture, distribution, and possession of these substances.

This committee substitute would be designated as “Pamela’s Law” in memory of Pamela Schmidt, a Rutgers student and resident of Warren Township whose body was discovered on March 13, 2011 in the basement of her boyfriend’s parent’s home in Cranford. According to newspaper reports, Pamela Schmidt’s boyfriend, who has been charged with her alleged murder, may have been using “bath salts.”

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR SENATE, No. 2829

STATE OF NEW JERSEY

DATED: JUNE 16, 2011

The Assembly Judiciary Committee reports favorably Senate Bill No.2829 (SCS).

This Senate committee substitute prohibits the possession and sale of products containing six chemical substances commonly referred to as “bath salts”: 4-methylmethcathinone (mephedrone, 4-MMC); 3,4-methylenedioxypropylamphetamine (MDPV); 3,4-methylenedioxyphenylmethcathinone (methyone, MDMC), 4-methoxymethcathinone (methedrone, bk-PMMA, PMMC); 3-fluoromethcathinone (3-FMC); and 4-fluoromethcathinone (flephedrone, 4-FMC).

These synthetic drugs are believed to be highly addictive. Their use has been associated with increased blood pressure and heart rate, agitation, hallucinations, extreme paranoia, delusions, and suicidal thoughts. They are frequently marketed as “cocaine substitutes” and recently had been available for purchase on the Internet and in retail establishments such as gas stations, convenience stores, and smoke shops.

This committee substitute sets out gradations for crimes involving these substances. The substitute would make it a crime of the second degree to manufacture, distribute or dispense, or possess or have under one’s control with intent to manufacture, distribute, or dispense, these substances in an amount of one ounce or more. A crime of the second degree is punishable by imprisonment for a term of five to 10 years, a fine of up to \$150,000, or both. It would be a crime of the third degree to manufacture, distribute or dispense, or possess or have under one’s control with intent to manufacture, distribute, or dispense, these substances in an amount of less than one ounce.

Under the substitute, the possession of one ounce or more of these substances would be a crime of the third degree, and possession of less than one ounce would be a crime of the fourth degree. A crime of the fourth degree is punishable by imprisonment for a term of up to 18 months, a fine of up to \$10,000, or both.

On April 27, 2011, the Acting Director of the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to the authority of paragraph (3) of subsection b. of section

31 of P.L.1970, c.226 (C.24:21-31), signed an order adding these substances to Schedule I of the “New Jersey Controlled Dangerous Substances Act.” This is the category for substances that have a high potential for abuse and no accepted medical use in treatment in the United States. Schedule I substances are subject to the strictest level of control.

Under N.J.S.2C:35-5, it is a crime of the third degree to manufacture, distribute or dispense, or possess or have under one’s control with intent to manufacture, distribute, or dispense, any Schedule I substance listed in paragraph (13) of subsection b. of the section. Under N.J.S.2C:35-10, possession of any Schedule I substance listed in paragraph (1) of subsection a. of the section is also a crime of the third degree.

The specific criminal penalties imposed by this committee substitute would differ from the statutory penalties listed above for the Schedule I substances. The substitute makes manufacturing, distributing, or dispensing, or possessing or having under one’s control with intent to manufacture, distribute, or dispense a crime of the second degree (instead of a third degree) if the quantity is one ounce or more, and makes possession of less than one ounce a crime of the fourth degree (instead of a third degree). The classifications as crimes of the third degree for manufacturing, distributing, or dispensing, or possessing or having under one’s control with intent to manufacture, distribute, or dispense less than one ounce, and possession of one ounce or more, would remain the same.

This substitute would be known as “Pamela’s Law” in memory of Pamela Schmidt, a Rutgers student and resident of Warren Township whose body was discovered on March 13, 2011 in the basement of her boyfriend’s home in Cranford. According to newspaper reports, Pamela Schmidt’s boyfriend, who has been charged with her alleged murder, may have been using “bath salts.”

LEGISLATIVE FISCAL ESTIMATE
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2829
STATE OF NEW JERSEY
214th LEGISLATURE

DATED: JULY 6, 2011

SUMMARY

Synopsis: "Pamela's law;" criminalizes possession and sale of mephedrone and methylenedioxypropylone, commonly known as "bath salts."
Type of Impact: General Fund expenditure
Agencies Affected: Judiciary, Department of Corrections

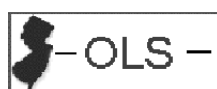
Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate – See comments below		

- The Office of Legislative Services (OLS) states that since this is a new offense, there is no data available to determine the number of individuals who would be convicted of the offense. The OLS notes that a crime of the second degree is punishable by a term of imprisonment of five to 10 years, a fine of up to \$150,000, or both. A crime of the third degree is punishable by a term of imprisonment of three to five years, a fine of up to \$15,000, or both. A crime of the fourth degree is punishable by imprisonment for a term of up to 18 months, a fine of up to \$10,000, or both.
- The OLS also notes that that Department of Corrections’ data indicate that the cost of constructing one additional prison bed space ranges between \$60,000 and \$95,000 depending upon the security level of the bed. The ongoing operating expense of housing a State sentenced prison inmate is \$49,000 per year for the duration of that offender's incarceration.
- The committee substitute known as “Pamela’s Law” would criminalize the possession and sale of substances found in the drug commonly known as “bath salts.”

BILL DESCRIPTION

Senate Committee Substitute to Senate Bill No. 2829 of 2011 would criminalize the



possession and sale of substances found in the drug commonly known as “bath salts”: 4-methylmethcathinone (mephedrone, 4-MMC); 3,4-methylenedioxypropylvalerone (MDPV); 3,4-methylenedioxymethcathinone (methylone, MDMC), 4-methoxymethcathinone (methedrone, bk-PMMA, PMMC); 3-fluoromethcathinone (3-FMC); and 4-fluoromethcathinone (flephedrone, 4-FMC).

The committee substitute sets out gradations for crimes involving these substances. The substitute would make it a crime of the second degree to manufacture, distribute or dispense, or possess or have under one’s control with intent to manufacture, distribute, or dispense, these substances in an amount of one ounce or more. It would be a crime of the third degree to manufacture, distribute or dispense, or possess or have under one’s control with intent to manufacture, distribute, or dispense, these substances in an amount of less than one ounce.

Under the substitute, the possession of one ounce or more of these substances would be a crime of the third degree, and possession of less than one ounce would be a crime of the fourth degree.

The substitute would be known as “Pamela’s Law” in memory of Pamela Schmidt, a Rutgers student and resident of Warren Township whose body was discovered on March 13, 2011 in the basement of her boyfriend’s home in Cranford. According to newspaper articles Pamela Schmidt’s boyfriend, who has been charged with her alleged murder, may have been using “bath salts.”

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS states that since this is a new offense, there is no data available to determine the number of individuals who would be convicted of the offense. The OLS notes that a crime of the second degree is punishable by a term of imprisonment of five to 10 years, a fine of up to \$150,000, or both. A crime of the third degree is punishable by a term of imprisonment of three to five years, a fine of up to \$15,000, or both. A crime of the fourth degree is punishable by imprisonment for a term of up to 18 months, a fine of up to \$10,000, or both.

The OLS also notes that that Department of Corrections’ data indicate that the cost of constructing one additional prison bed space ranges between \$60,000 and \$95,000 depending upon the security level of the bed. The ongoing operating expense of housing a State sentenced prison inmate is \$49,000 per year for the duration of that offender's incarceration.

Section: *Judiciary*
Analyst: *Anne Raughley*
 Principal Fiscal Analyst
Approved: *David J. Rosen*
 Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY, No. 3984

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED MAY 9, 2011

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex)

Assemblywoman LINDA STENDER

District 22 (Middlesex, Somerset and Union)

Assemblyman UPENDRA J. CHIVUKULA

District 17 (Middlesex and Somerset)

Assemblywoman MARY PAT ANGELINI

District 11 (Monmouth)

Assemblyman JON M. BRAMNICK

District 21 (Essex, Morris, Somerset and Union)

Assemblyman DOMENICK DICICCO, JR.

District 4 (Camden and Gloucester)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Co-Sponsored by:

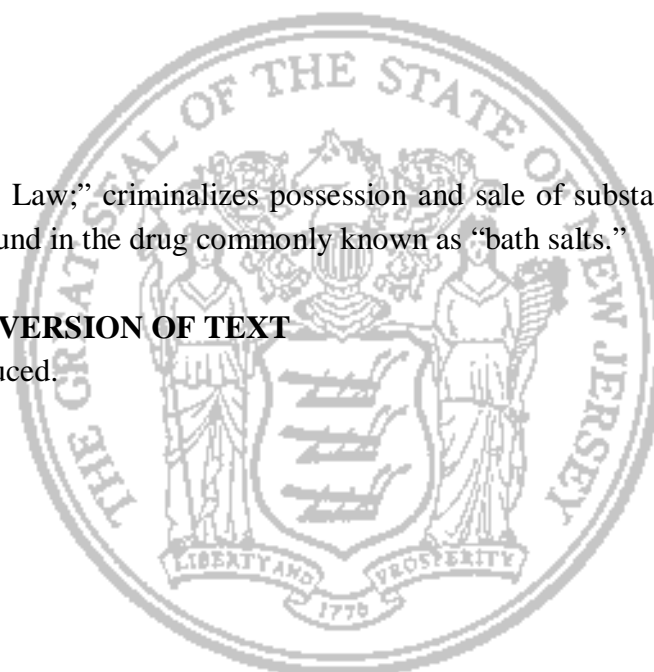
Assemblywoman N.Munoz

SYNOPSIS

“Pamela’s Law;” criminalizes possession and sale of substances containing chemicals found in the drug commonly known as “bath salts.”

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/14/2011)

1 AN ACT concerning controlled dangerous substances, designated as
2 "Pamela's Law," and amending and supplementing Title 2C of
3 the New Jersey Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. N.J.S.2C:35-2 is amended to read as follows:

9 2C:35-2. Definitions. As used in this chapter:

10 "Administer" means the direct application of a controlled
11 dangerous substance or controlled substance analog, whether by
12 injection, inhalation, ingestion, or any other means, to the body of a
13 patient or research subject by: (1) a practitioner (or, in his
14 presence, by his lawfully authorized agent), or (2) the patient or
15 research subject at the lawful direction and in the presence of the
16 practitioner.

17 "Agent" means an authorized person who acts on behalf of or at
18 the direction of a manufacturer, distributor, or dispenser but does
19 not include a common or contract carrier, public warehouseman, or
20 employee thereof.

21 "Controlled dangerous substance" means a drug, substance, or
22 immediate precursor in Schedules I through V, any substance the
23 distribution of which is specifically prohibited in N.J.S.2C:35-3, in
24 section 3 of P.L.1997, c.194 (C.2C:35-5.2) **[or]** in section 5 of
25 P.L.1997, c.194 (C.2C:35-5.3), in section 2 of
26 P.L. , c. (C.)(pending before the Legislature as this bill), and
27 any drug or substance which, when ingested, is metabolized or
28 otherwise becomes a controlled dangerous substance in the human
29 body. When any statute refers to controlled dangerous substances,
30 or to a specific controlled dangerous substance, it shall also be
31 deemed to refer to any drug or substance which, when ingested, is
32 metabolized or otherwise becomes a controlled dangerous substance
33 or the specific controlled dangerous substance, and to any substance
34 that is an immediate precursor of a controlled dangerous substance
35 or the specific controlled dangerous substance. The term shall not
36 include distilled spirits, wine, malt beverages, as those terms are
37 defined or used in R.S.33:1-1 et seq., or tobacco and tobacco
38 products. The term, wherever it appears in any law or
39 administrative regulation of this State, shall include controlled
40 substance analogs.

41 "Controlled substance analog" means a substance that has a
42 chemical structure substantially similar to that of a controlled
43 dangerous substance and that was specifically designed to produce
44 an effect substantially similar to that of a controlled dangerous
45 substance. The term shall not include a substance manufactured or

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 distributed in conformance with the provisions of an approved new
2 drug application or an exemption for investigational use within the
3 meaning of section 505 of the "Federal Food, Drug and Cosmetic
4 Act," 52 Stat. 1052 (21 U.S.C. s.355).

5 "Counterfeit substance" means a controlled dangerous substance
6 or controlled substance analog which, or the container or labeling of
7 which, without authorization, bears the trademark, trade name, or
8 other identifying mark, imprint, number or device, or any likeness
9 thereof, of a manufacturer, distributor, or dispenser other than the
10 person or persons who in fact manufactured, distributed or
11 dispensed such substance and which thereby falsely purports or is
12 represented to be the product of, or to have been distributed by,
13 such other manufacturer, distributor, or dispenser.

14 "Deliver" or "delivery" means the actual, constructive, or
15 attempted transfer from one person to another of a controlled
16 dangerous substance or controlled substance analog, whether or not
17 there is an agency relationship.

18 "Dispense" means to deliver a controlled dangerous substance or
19 controlled substance analog to an ultimate user or research subject
20 by or pursuant to the lawful order of a practitioner, including the
21 prescribing, administering, packaging, labeling, or compounding
22 necessary to prepare the substance for that delivery. "Dispenser"
23 means a practitioner who dispenses.

24 "Distribute" means to deliver other than by administering or
25 dispensing a controlled dangerous substance or controlled substance
26 analog. "Distributor" means a person who distributes.

27 "Drugs" means (a) substances recognized in the official United
28 States Pharmacopoeia, official Homeopathic Pharmacopoeia of the
29 United States, or official National Formulary, or any supplement to
30 any of them; and (b) substances intended for use in the diagnosis,
31 cure, mitigation, treatment, or prevention of disease in man or other
32 animals; and (c) substances (other than food) intended to affect the
33 structure or any function of the body of man or other animals; and
34 (d) substances intended for use as a component of any article
35 specified in subsections (a), (b) and (c) of this section; but does not
36 include devices or their components, parts or accessories.

37 "Drug or alcohol dependent person" means a person who as a
38 result of using a controlled dangerous substance or controlled
39 substance analog or alcohol has been in a state of psychic or
40 physical dependence, or both, arising from the use of that controlled
41 dangerous substance or controlled substance analog or alcohol on a
42 continuous or repetitive basis. Drug or alcohol dependence is
43 characterized by behavioral and other responses, including but not
44 limited to a strong compulsion to take the substance on a recurring
45 basis in order to experience its psychic effects, or to avoid the
46 discomfort of its absence.

1 "Hashish" means the resin extracted from any part of the plant
2 Genus Cannabis L. and any compound, manufacture, salt,
3 derivative, mixture, or preparation of such resin.

4 "Manufacture" means the production, preparation, propagation,
5 compounding, conversion or processing of a controlled dangerous
6 substance or controlled substance analog, either directly or by
7 extraction from substances of natural origin, or independently by
8 means of chemical synthesis, or by a combination of extraction and
9 chemical synthesis, and includes any packaging or repackaging of
10 the substance or labeling or relabeling of its container, except that
11 this term does not include the preparation or compounding of a
12 controlled dangerous substance or controlled substance analog by
13 an individual for his own use or the preparation, compounding,
14 packaging, or labeling of a controlled dangerous substance: (1) by
15 a practitioner as an incident to his administering or dispensing of a
16 controlled dangerous substance or controlled substance analog in
17 the course of his professional practice, or (2) by a practitioner (or
18 under his supervision) for the purpose of, or as an incident to,
19 research, teaching, or chemical analysis and not for sale.

20 "Marijuana" means all parts of the plant Genus Cannabis L.,
21 whether growing or not; the seeds thereof, and every compound,
22 manufacture, salt, derivative, mixture, or preparation of such plant
23 or its seeds, except those containing resin extracted from such plant;
24 but shall not include the mature stalks of such plant, fiber produced
25 from such stalks, oil or cake made from the seeds of such plant, any
26 other compound, manufacture, salt, derivative, mixture, or
27 preparation of such mature stalks, fiber, oil, or cake, or the
28 sterilized seed of such plant which is incapable of germination.

29 "Narcotic drug" means any of the following, whether produced
30 directly or indirectly by extraction from substances of vegetable
31 origin, or independently by means of chemical synthesis, or by a
32 combination of extraction and chemical synthesis:

33 (a) Opium, coca leaves, and opiates;

34 (b) A compound, manufacture, salt, derivative, or preparation of
35 opium, coca leaves, or opiates;

36 (c) A substance (and any compound, manufacture, salt,
37 derivative, or preparation thereof) which is chemically identical
38 with any of the substances referred to in subsections (a) and (b),
39 except that the words "narcotic drug" as used in this act shall not
40 include decocainized coca leaves or extracts of coca leaves, which
41 extracts do not contain cocaine or ecogine.

42 "Opiate" means any dangerous substance having an addiction-
43 forming or addiction-sustaining liability similar to morphine or
44 being capable of conversion into a drug having such addiction-
45 forming or addiction-sustaining liability. It does not include, unless
46 specifically designated as controlled pursuant to the provisions of
47 section 3 of P.L.1970, c.226 (C.24:21-3), the dextrorotatory isomer

1 of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).
2 It does include its racemic and levorotatory forms.

3 "Opium poppy" means the plant of the species *Papaver*
4 *somniferum* L., except the seeds thereof.

5 "Person" means any corporation, association, partnership, trust,
6 other institution or entity or one or more individuals.

7 "Plant" means an organism having leaves and a readily
8 observable root formation, including, but not limited to, a cutting
9 having roots, a rootball or root hairs.

10 "Poppy straw" means all parts, except the seeds, of the opium
11 poppy, after mowing.

12 "Practitioner" means a physician, dentist, veterinarian, scientific
13 investigator, laboratory, pharmacy, hospital or other person
14 licensed, registered, or otherwise permitted to distribute, dispense,
15 conduct research with respect to, or administer a controlled
16 dangerous substance or controlled substance analog in the course of
17 professional practice or research in this State.

18 (a) "Physician" means a physician authorized by law to practice
19 medicine in this or any other state and any other person authorized
20 by law to treat sick and injured human beings in this or any other
21 state.

22 (b) "Veterinarian" means a veterinarian authorized by law to
23 practice veterinary medicine in this State.

24 (c) "Dentist" means a dentist authorized by law to practice
25 dentistry in this State.

26 (d) "Hospital" means any federal institution, or any institution
27 for the care and treatment of the sick and injured, operated or
28 approved by the appropriate State department as proper to be
29 entrusted with the custody and professional use of controlled
30 dangerous substances or controlled substance analogs.

31 (e) "Laboratory" means a laboratory to be entrusted with the
32 custody of narcotic drugs and the use of controlled dangerous
33 substances or controlled substance analogs for scientific,
34 experimental and medical purposes and for purposes of instruction
35 approved by the State Department of Health and Senior Services.

36 "Production" includes the manufacture, planting, cultivation,
37 growing, or harvesting of a controlled dangerous substance or
38 controlled substance analog.

39 "Immediate precursor" means a substance which the State
40 Department of Health and Senior Services has found to be and by
41 regulation designates as being the principal compound commonly
42 used or produced primarily for use, and which is an immediate
43 chemical intermediary used or likely to be used in the manufacture
44 of a controlled dangerous substance or controlled substance analog,
45 the control of which is necessary to prevent, curtail, or limit such
46 manufacture.

47 "Residential treatment facility" means any facility licensed and
48 approved by the Department of Health and Senior Services and

1 which is approved by any county probation department for the
2 inpatient treatment and rehabilitation of drug or alcohol dependent
3 persons.

4 "Schedules I, II, III, IV, and V" are the schedules set forth in
5 sections 5 through 8 of P.L.1970, c.226 (C.24:21-5 through 24:21-
6 8) and in section 4 of P.L.1971, c.3 (C.24:21-8.1) and as modified
7 by any regulations issued by the Commissioner of Health and
8 Senior Services pursuant to his authority as provided in section 3 of
9 P.L.1970, c.226 (C.24:21-3).

10 "State" means the State of New Jersey.

11 "Ultimate user" means a person who lawfully possesses a
12 controlled dangerous substance or controlled substance analog for
13 his own use or for the use of a member of his household or for
14 administration to an animal owned by him or by a member of his
15 household.

16 "Prescription legend drug" means any drug which under federal
17 or State law requires dispensing by prescription or order of a
18 licensed physician, veterinarian or dentist and is required to bear the
19 statement "Rx only" or similar wording indicating that such drug
20 may be sold or dispensed only upon the prescription of a licensed
21 medical practitioner and is not a controlled dangerous substance or
22 stramonium preparation.

23 "Stramonium preparation" means a substance prepared from any
24 part of the stramonium plant in the form of a powder, pipe mixture,
25 cigarette, or any other form with or without other ingredients.

26 "Stramonium plant" means the plant *Datura Stramonium* Linne,
27 including *Datura Tatula* Linne.

28 (cf: P.L.2005, c.205, s.1)

29

30 2. (New section) It is a crime of the third degree for any
31 person knowingly or purposely to manufacture, distribute or
32 dispense, or to possess or have under his control with intent to
33 manufacture, distribute, or dispense substances containing: 4-
34 methylmethcathinone (mephedrone, 4-MMC); 3,4-
35 methylenedioxypropylvalerone (MDPV); 3,4-
36 methylenedioxypropylmethcathinone (methylone, MDMC), 4-
37 methoxypropylmethcathinone (methedrone, bk-PMMA, PMMC); 3-
38 fluoromethylmethcathinone (3-FMC); or 4-fluoromethylmethcathinone
39 (4-flephedrone, 4-FMC), except as otherwise authorized by P.L.1970,
40 c.226 (C.24:21-1 et seq.).

41

42 3. (New section) It is a crime of the third degree for any
43 person, knowingly or purposely, to obtain, or to possess, substances
44 containing: 4-methylmethcathinone (mephedrone, 4-MMC); 3,4-
45 methylenedioxypropylvalerone (MDPV); 3,4-
46 methylenedioxypropylmethcathinone (methylone, MDMC), 4-
47 methoxypropylmethcathinone (methedrone, bk-PMMA, PMMC); 3-
48 fluoromethylmethcathinone (3-FMC); or 4-fluoromethylmethcathinone

1 (flephedrone, 4-FMC), unless the substance was obtained directly,
2 or pursuant to a valid prescription or order form from a practitioner,
3 while acting in the course of his professional practice, or except as
4 otherwise authorized by P.L.1970, c.226 (C.24:21-1 et seq.).

5
6 4. This act shall take effect immediately.
7

8
9 STATEMENT
10

11 This bill would criminalize the possession and sale of products
12 containing the substances found in the drug commonly known as
13 “bath salts,” including: 4-methylmethcathinone (mephedrone, 4-
14 MMC); 3,4-methylenedioxyprovalerone (MDPV); 3,4-
15 methylenedioxymethcathinone (methydone, MDMC), 4-
16 methoxymethcathinone (methedrone, bk-PMMA, PMMC); 3-
17 fluoromethcathinone (3-FMC); or 4-fluoromethcathinone
18 (flephedrone, 4-FMC). The use of these products, which are
19 believed to be highly addictive, has been associated with increased
20 blood pressure, increased heart rate, agitation, hallucinations,
21 extreme paranoia, delusions, and suicidal thoughts. These products
22 are frequently marketed as “cocaine substitutes” and are easily
23 available for purchase on the Internet and in retail establishments
24 such as gas stations, convenience stores, and “head shops.”

25 This bill would make it a crime of the third degree to possess,
26 manufacture, distribute or dispense, or to possess or have under
27 one’s control with intent to manufacture, distribute, or dispense
28 products containing: 4-methylmethcathinone (mephedrone, 4-
29 MMC); 3,4-methylenedioxyprovalerone (MDPV); 3,4-
30 methylenedioxymethcathinone (methydone, MDMC), 4-
31 methoxymethcathinone (methedrone, bk-PMMA, PMMC); 3-
32 fluoromethcathinone (3-FMC); or 4-fluoromethcathinone
33 (flephedrone, 4-FMC). A crime of the third degree is punishable by
34 a three to five years imprisonment, a \$15,000 fine, or both.

35 This bill would be known as “Pamela’s Law” in memory of
36 Pamela Schmidt, a Rutgers student and resident of Warren
37 Township whose body was discovered on March 13, 2011 in the
38 basement of her boyfriend’s parent’s home in Cranford. According
39 to newspaper articles Pamela Schmidt’s boyfriend, who has been
40 charged with her alleged murder, may have been using “bath salts.”

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 3984

STATE OF NEW JERSEY

DATED: JUNE 16, 2011

The Assembly Judiciary Committee reports favorably a committee substitute for Assembly Bill No. 3984.

This committee substitute would criminalize the possession and sale of substances found in the drug commonly known as “bath salts”:
4-methylmethcathinone (mephedrone, 4-MMC); 3,4-methylenedioxypropylone (MDPV); 3,4-methylenedioxypropylmethcathinone (methylone, MDMC), 4-methoxymethcathinone (methedrone, bk-PMMA, PMMC); 3-fluoromethcathinone (3-FMC); and 4-fluoromethcathinone (flepheprone, 4-FMC). These synthetic drugs are believed to be highly addictive. Their use has been associated with increased blood pressure and heart rate, agitation, hallucinations, extreme paranoia, delusions, and suicidal thoughts. They are frequently marketed as “cocaine substitutes” and recently had been available for purchase on the Internet and in retail establishments such as gas stations, convenience stores, and smoke shops.

As introduced, A-3984 had made it a crime of the third degree to manufacture, distribute or dispense, or to possess or have under one’s control with intent to manufacture, distribute, or dispense any of the above-listed substances, except as otherwise authorized by P.L.1970, c.226 (C.24:21-1 et seq.), the “New Jersey Controlled Dangerous Substances Act.” The bill as introduced had also made it a crime of the third degree to obtain or possess any such substance unless it was obtained from a practitioner acting in the course of his professional practice or except as otherwise authorized by P.L.1970, c.226. A crime of the third degree is punishable by a term of imprisonment of three to five years, a fine of up to \$15,000, or both.

This committee substitute sets out gradations for crimes involving these substances. The substitute would make it a crime of the second degree to manufacture, distribute or dispense, or possess or have under one’s control with intent to manufacture, distribute, or dispense, these substances in an amount of one ounce or more. A crime of the second degree is punishable by imprisonment for a term of five to 10 years, a fine of up to \$150,000, or both. It would be a crime of the third degree to manufacture, distribute or dispense, or possess or have under one’s

control with intent to manufacture, distribute, or dispense, these substances in an amount of less than one ounce.

Under the substitute, the possession of one ounce or more of these substances would be a crime of the third degree, and possession of less than one ounce would be a crime of the fourth degree. A crime of the fourth degree is punishable by imprisonment for a term of up to 18 months, a fine of up to \$10,000, or both.

On April 27, 2011, the Acting Director of the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to the authority of paragraph (3) of subsection b. of section 31 of P.L.1970, c.226 (C.24:21-31), signed an order adding these substances to Schedule I of the “New Jersey Controlled Dangerous Substances Act.” This is the category for substances that have a high potential for abuse and no accepted medical use in treatment in the United States. Schedule I substances are subject to the strictest level of control.

Under N.J.S.2C:35-5, it is a crime of the third degree to manufacture, distribute or dispense, or possess or have under one’s control with intent to manufacture, distribute, or dispense, any Schedule I substance listed in paragraph (13) of subsection b. of the section. Under N.J.S.2C:35-10, possession of any Schedule I substance listed in paragraph (1) of subsection a. of the section is also a crime of the third degree.

The specific criminal penalties imposed by this committee substitute would differ from the statutory penalties listed above for the Schedule I substances. The substitute makes manufacturing, distributing, or dispensing, or possessing or having under one’s control with intent to manufacture, distribute, or dispense a crime of the second degree (instead of a third degree) if the quantity is one ounce or more, and makes possession of less than one ounce a crime of the fourth degree (instead of a third degree). The classifications as crimes of the third degree for manufacturing, distributing, or dispensing, or possessing or having under one’s control with intent to manufacture, distribute, or dispense less than one ounce, and possession of one ounce or more, would remain the same.

This substitute would be known as “Pamela’s Law” in memory of Pamela Schmidt, a Rutgers student and resident of Warren Township whose body was discovered on March 13, 2011 in the basement of her boyfriend’s home in Cranford. According to newspaper articles Pamela Schmidt’s boyfriend, who has been charged with her alleged murder, may have been using “bath salts.”

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3984
STATE OF NEW JERSEY
214th LEGISLATURE

DATED: JULY 6, 2011

SUMMARY

Synopsis: "Pamela's law;" criminalizes possession and sale of mephedrone and methylenedioxypropylone, commonly known as "bath salts."

Type of Impact: General Fund expenditure

Agencies Affected: Judiciary, Department of Corrections

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate – See comments below		

- The Office of Legislative Services (OLS) states that since this is a new offense, there is no data available to determine the number of individuals who would be convicted of the offense. The OLS notes that a crime of the second degree is punishable by a term of imprisonment offive to 10 years, a fine of up to \$150,000, or both. A crime of the third degree is punishable by a term of imprisonment of three to five years, a fine of up to \$15,000, or both. A crime of the fourth degree is punishable by imprisonment for a term of up to 18 months, a fine of up to \$10,000, or both.
- The OLS also notes that that Department of Corrections' data indicate that the cost of constructing one additional prison bed space ranges between \$60,000 and \$95,000 depending upon the security level of the bed. The ongoing operating expense of housing a State sentenced prison inmate is \$49,000 per year for the duration of that offender's incarceration.
- The committee substitute known as "Pamela's Law" would criminalize the possession and sale of substances found in the drug commonly known as "bath salts."

BILL DESCRIPTION

Assembly Committee Substitute to Assembly Bill No. 3984 of 2011 would criminalize the

possession and sale of substances found in the drug commonly known as “bath salts”: 4-methylmethcathinone (mephedrone, 4-MMC); 3,4-methylenedioxypropylvalerone (MDPV); 3,4-methylenedioxymethcathinone (methylone, MDMC), 4-methoxymethcathinone (methedrone, bk-PMMA, PMMC); 3-fluoromethcathinone (3-FMC); and 4-fluoromethcathinone (flephedrone, 4-FMC).

The committee substitute sets out gradations for crimes involving these substances. The substitute would make it a crime of the second degree to manufacture, distribute or dispense, or possess or have under one’s control with intent to manufacture, distribute, or dispense, these substances in an amount of one ounce or more. It would be a crime of the third degree to manufacture, distribute or dispense, or possess or have under one’s control with intent to manufacture, distribute, or dispense, these substances in an amount of less than one ounce.

Under the substitute, the possession of one ounce or more of these substances would be a crime of the third degree, and possession of less than one ounce would be a crime of the fourth degree.

The substitute would be known as “Pamela’s Law” in memory of Pamela Schmidt, a Rutgers student and resident of Warren Township whose body was discovered on March 13, 2011 in the basement of her boyfriend’s home in Cranford. According to newspaper articles Pamela Schmidt’s boyfriend, who has been charged with her alleged murder, may have been using “bath salts.”

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS states that since this is a new offense, there is no data available to determine the number of individuals who would be convicted of the offense. The OLS notes that a crime of the second degree is punishable by a term of imprisonment of five to 10 years, a fine of up to \$150,000, or both. A crime of the third degree is punishable by a term of imprisonment of three to five years, a fine of up to \$15,000, or both. A crime of the fourth degree is punishable by imprisonment for a term of up to 18 months, a fine of up to \$10,000, or both.

The OLS also notes that that Department of Corrections’ data indicate that the cost of constructing one additional prison bed space ranges between \$60,000 and \$95,000 depending upon the security level of the bed. The ongoing operating expense of housing a State sentenced prison inmate is \$49,000 per year for the duration of that offender's incarceration.

Section: Judiciary
Analyst: Anne Raughley
Principal Fiscal Analyst
Approved: David J. Rosen
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Governor Chris Christie Signs Legislation Banning Designer Drugs Labeled as "Bath Salts"

Tuesday, August 23, 2011 Tags: [Bill Action](#)

Trenton, NJ – Governor Chris Christie yesterday signed SCS-2829, criminalizing the manufacturing, distribution, sales, and possession of designer drugs labeled as "bath salts" in New Jersey. The bill, known as "Pamela's Law," was named in memory of Pamela Schmidt, a Rutgers student and resident of Warren Township, who was believed to have been murdered by an individual under the influence of "bath salts." The measure codifies previous action taken by the Division of Consumer Affairs in the Department of Law and Public Safety.

In signing the legislation, Governor Christie noted, "By signing Pamela's Law, we are continuing to address the real world impact of these so-called 'bath salt' designer drugs that have already negatively impacted the lives of too many New Jerseyans. These chemicals have no valid medical use and can only cause life-threatening harm to those who ingest them. This action, coupled with our efforts statewide to raise awareness of the dangers of these and other drugs, will give law enforcement the tools they need to properly address the proliferation of these drugs and help us to ensure that needless and senseless additional damage is not caused to families in our state."

These designer drugs, labeled as "bath salts," have been associated with intense, severe side effects that have led to suicidal thoughts, self-mutilation, and violent outbursts. They are frequently marketed as "cocaine substitutes" and recently had been available for purchase on the internet and in retail establishments such as gas stations, convenience stores, and smoke shops. Unlike other legitimate substances that are misused to produce a high, like glue or gasoline, these "bath salts" have no other legitimate purpose other than as a synthetic drug.

The new law makes the following chemicals Schedule I Controlled Dangerous Substances (CDS):

- 3,4 – Methylenedioxypropylvalerone (MDPV)
- 4 – Methylmethcathinone (Mephedrone, 4-MMC)
- 3,4 – Methylenedioxymethcathinone (Methylone, MDMC)
- 4 – Fluoromethcathinone (Flephedrone, 4-FMC)
- 3 – Fluoromethcathinone (3-FMC)
- 4 – Methoxymethcathinone (Methedrone, bk-PMMA, PMMC)

The contents of individual packets of designer drugs labeled as "bath salts" vary, but have generally been found to include at least one of these chemicals. The chemicals are synthetic derivatives of cathinone, which is already a Schedule I CDS under Federal law.

In April, Thomas R. Calcagni, Acting Director of the Division of Consumer Affairs in the Department of Law and Public Safety, reclassified six substances to Schedule I of the "New Jersey Controlled Dangerous Substances Act." Since issuing the Order, the Division of Consumer Affairs, with the assistance of the New Jersey Poison Information and Education System and local law enforcement, has been monitoring the increasing prevalence of these drugs within New Jersey. At the time of the Order, New Jersey was believed to be the third state to take expedited action classifying the six so-called "bath salts" designer drug chemicals as Schedule I CDS. SCS-2829 creates a separate statute in the NJ Criminal Code for these substances that will allow law enforcement to prevent the sale, distribution and possession of "bath salts."

SCS-2829 sponsors include Senators John A. Girgenti (D-Bergen, Passaic), Nicholas P. Scutari (D-Middlesex, Somerset, Union), Anthony R. Bucco (R-Morris), and Christopher "Kip" Bateman (R-Morris, Somerset), as well as Assemblymembers John F. McKeon (D-Essex), Linda Stender (D-Middlesex, Somerset, Union), Upendra J. Chivukula (D-Middlesex, Somerset), Mary Pat Angelini (R-Monmouth), Jon M. Bramnick (R-Essex, Morris, Somerset, Union), Domenick DiCicco Jr. (R-Camden, Gloucester), Valarie Vaineri Huttie (D-Bergen), Paul D. Moriarty (D-Camden, Gloucester), Nancy F. Munoz (R-Essex, Morris, Somerset, Union) and Ralph R. Caputo (D-Essex).

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